

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

GEORGE LEE COLE, JR.,

Plaintiff,

v.

CALIFORNIA DEPARTMENT OF
CORRECTIONS AND
REHABILITATION, et al.,

Defendants.

No. 1:25-cv-00272 GSA (PC)

ORDER DENYING PLAINTIFF'S MOTION
FOR THE APPOINTMENT OF COUNSEL

(ECF No. 17)

Plaintiff, a former state prisoner¹ proceeding pro se and in forma pauperis, has filed this civil rights action seeking relief under 42 U.S.C. § 1983. The matter was referred to a United States Magistrate Judge pursuant to 28 U.S.C. § 636(b)(1)(B) and Local Rule 302.

Plaintiff has filed a motion for the appointment of counsel. ECF No. 17. For the reasons stated below, the motion will be denied.

I. MOTION FOR THE APPOINTMENT OF COUNSEL

In support of Plaintiff's motion for the appointment of counsel, which was filed while Plaintiff was still incarcerated (see generally ECF No. 17), Plaintiff states that the minimal

¹ On April 2, 2025, a notice of change of address filed by Plaintiff was docketed. ECF No. 19. In it, the new address Plaintiff provides appears to be a residential one indicating that Plaintiff has likely been released from custody.

1 facility yard where he was housed had no law room or legal clerk. Id. In addition, Plaintiff states
2 that the prison will not provide him with any resources. Id.

3 II. DISCUSSION

4 A. Applicable Law

5 District courts lack authority to require counsel to represent indigent people in section
6 1983 cases. See Mallard v. United States Dist. Court, 490 U.S. 296, 298 (1989). In exceptional
7 circumstances, the court may request an attorney to voluntarily represent such a plaintiff. See 28
8 U.S.C. § 1915(e)(1). Terrell v. Brewer, 935 F.2d 1015, 1017 (9th Cir. 1991); Wood v.
9 Housewright, 900 F.2d 1332, 1335-36 (9th Cir. 1990). When determining whether “exceptional
10 circumstances” exist, the court must consider plaintiff’s likelihood of success on the merits as
11 well as the ability of the plaintiff to articulate his claims pro se in light of the complexity of the
12 legal issues involved. Palmer v. Valdez, 560 F.3d 965, 970 (9th Cir. 2009) (district court did not
13 abuse discretion in declining to appoint counsel). The burden of demonstrating exceptional
14 circumstances is on the plaintiff. Id. Circumstances common to many, such as lack of legal
15 education and limited law library access, do not establish exceptional circumstances that warrant
16 a request for voluntary assistance of counsel.

17 B. Analysis

18 Although the Court has yet to screen Plaintiff’s complaint in order to determine whether
19 his complaint is likely to be successful on its merits, a cursory review of the pleadings that
20 Plaintiff has filed to date, as well as how he has managed this matter thus far, indicates that
21 Plaintiff is able to articulate his claims with adequate sufficiency. See generally ECF No. 1
22 (complaint). Therefore, having considered the factors under Palmer, the Court finds that plaintiff
23 has failed to meet his burden of demonstrating exceptional circumstances warranting the
24 appointment of counsel at this time.

25 Accordingly, IT IS HEREBY ORDERED that Plaintiff’s motion for the appointment of
26 counsel (ECF No. 17) is DENIED.

27
28 IT IS SO ORDERED.

Dated: April 2, 2025

/s/ Gary S. Austin
UNITED STATES MAGISTRATE JUDGE